IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE

WRIT PETITION NO.5078 OF 2005

Soli @ Sohrab Irani & Ors. ...Petitioners.
Vs.
The Chief Officer, Dahanu Municipal
Council & Ors. ...Respondents.

....

Mr. Sanjay Jain i/b. Gabriel Pillai for the Petitioners.
Mr. Rajesh Datar for Respondent No.1.
Mr.P. P. Kakade, AGP for Respondent No.2.

.....

CORAM : F.I REBELLO AND
DR.D.Y.CHANDRACHUD, JJ.

October 7, 2005.

P.C.

Rule. Heard forthwith.

The case of the Petitioners was that on the land which is belonging to them, a road has been constructed. The area, according to the Petitioners, admeasures about 2706 sq.meters and Respondent No.1 had passed a resolution for acquiring the land on 12th November 1998. There has been subsequent correspondence including by Respondent No.1, the Town planner, for valuation of the subject land. As Respondent No.1 had used the Petitioners' land, on 25th November 2003, Resolution No.18 has been passed to pay compensation to the Petitioners.

Measurement has also taken place. Consequent to the resolution by Respondent No.1 to pay compensation, the Petitioner had demanded of Respondent No.1 that the compensation be paid at the market rate or at Rs.330/- per sq.meter.

Various orders have been passed by this Court during the pendency of the petition. Last such order was of 22nd September 2005 wherein attention of the Court was invited to Sections 174 and 330 of the Maharashtra Municipal Councils, Nagar Parishads and Industrial Township Act, 1965. Subsequent to that order, on behalf of Respondent No.1, the Learned Counsel made a statement that a notification has been issued on 23rd September 2005 notifying the street in terms of Section 174.

Once a street has been notified, the Petitioner has a remedy in law in terms of Section 330 of the Maharashtra Municipal Councils, Nagar Parishads and Industrial Township Act, 1965. Considering that the Petitioner has a remedy under the said Section, it will not be proper for us now to exercise our extraordinary jurisdiction. The petition is disposed of with liberty to the Petitioner to move under Section 330 of the Act for

compensation which he is entitled to in law. The petition is disposed of accordingly. No order as to costs.

(F.I. Rebello, J.)

(Dr. D.Y. Chandrachud, J.)